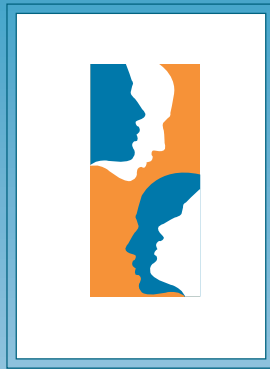


Professional Therapy Never Includes Sex



**CALIFORNIA DEPARTMENT
OF CONSUMER AFFAIRS**

State of California
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State and Consumer Services Agency
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Department of Consumer Affairs
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Patient Bill of Rights

You have the right to:

- Request and receive full information about the therapist's professional capabilities, including licensure, education, training, experience, professional association membership, specialization, and limitations.
- Have written information about fees, method of payment, insurance reimbursement, number of sessions, substitutions (in cases of vacation and emergencies), and cancellation policies before beginning therapy.
- Receive respectful treatment that will be helpful to you.
- A safe environment, free from sexual, physical, and emotional abuse.
- Ask questions about your therapy.
- Refuse to answer any question or disclose any information you choose not to reveal.
- Request that the therapist inform you of your progress.
- Know the limits of confidentiality and the circumstances in which a therapist is legally required to disclose information to others.
- Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- Refuse a particular type of treatment or end treatment without obligation or harassment.
- Refuse electronic recording (but you may request it if you wish).
- Request and (in most cases) receive a summary of your file, including the diagnosis, your progress, and type of treatment.
- Report unethical and illegal behavior by a therapist (see Reporting Options, page 11).
- Receive a second opinion at any time about your therapy or therapist's methods.
- Request the transfer of a copy of your file to any therapist or agency you choose.

Introduction

Professional therapy **never** includes sex. It also never includes verbal sexual advances or any **other** kind of sexual contact or behavior. Sexual contact of any kind between a therapist and a patient is illegal and unethical. It can also be harmful to the patient. Harm may arise from the therapist's exploitation of the patient to fulfill his or her own needs or desires, as well as from the therapist's loss of the objectivity necessary for effective therapy. All therapists are trained and educated to know that this kind of behavior is inappropriate and can result in license revocation.

By the nature of their profession, therapists are trusted and respected, and it is common for patients to admire them and feel attracted to them. However, a therapist who accepts or encourages these normal feelings in a sexual way—or tells a patient that sexual involvement is part of therapy—is using the trusted therapy relationship to take advantage of the patient. And once sexual involvement begins, therapy for the patient ends. The original issues that brought the patient to therapy are postponed, neglected, and sometimes lost.

Many people who endure this kind of abusive behavior from therapists suffer harmful long-lasting emotional and psychological effects. Family life and friendships are often disrupted, sometimes ruined.

I foolishly put my trust in him. I assumed he was the professional. He told me that a body massage, touching me in intimate areas, was a legitimate part of therapy. When I felt uneasy about it, I told myself that it was my hangup getting in the way of therapy.

California's lawmakers, licensing boards, professional associations, and ethical therapists want this kind of behavior stopped. This booklet was developed to help persons who have been sexually exploited by their therapists. It outlines their rights and options for reporting what happened. It also defines therapist sexual exploitation, gives some warning signs of unprofessional behavior, presents a Patient Bill of Rights, and answers some frequently asked questions.



Definitions

According to California laws:

- Any kind of sexual contact, asking for sexual contact, or sexual misconduct by a therapist with a patient is illegal, as well as unethical, as set forth in Business and Professions Code Sections 726, 729, 2960(o), 4982(k), 4986.71, and 4992.3(k).
- “Sexual contact” means the touching of an intimate part (sexual organ, anus, buttocks, groin, or breast) of another person, including sexual intercourse.
- “Touching” means physical contact with another person, either through the person’s clothes or directly with the person’s skin (Business and Professions Code Section 728).

Sexual contact can include sexual intercourse, sodomy, oral copulation, fondling, and any other kind of sexual touching. Sexual misconduct covers an even broader range, such as nudity, kissing, spanking, and verbal suggestions, innuendos, or advances. This kind of sexual behavior by a therapist with a patient is sexual exploitation. It is unethical, unprofessional, and illegal.

Throughout this booklet, the general terms “therapist,” “therapy,” and “patient” will be used. “Therapist” refers to anyone who is licensed to practice psychotherapy, or is training to become licensed, and includes:

- Psychiatrists (physicians practicing psychotherapy)
- Psychologists
- Registered psychologists
- Educational psychologists
- Psychological interns
- Psychological assistants
- Licensed clinical social workers
- Registered associate clinical social workers
- Licensed marriage, family, and child counselors
- Marriage, family, and child counselor registered interns and trainees

“Therapy” includes any type of mental health counseling from any of the licensed or registered therapists listed above. “Patient” refers to anyone receiving therapy or counseling.

Warning Signs

In most sexual abuse or exploitation cases, other inappropriate behavior comes first. While it may be subtle or confusing, it usually feels uncomfortable to the patient. Some clues or warning signs are:

- Telling sexual jokes or stories.
- “Making eyes at” or giving seductive looks to the patient.
- Discussing the therapist’s sex life or relationships excessively.
- Sitting too close, initiating hugging or holding of the patient, or lying next to the patient.

Another warning sign is when therapists give patients “special” treatment, such as:

- Inviting a patient to lunch, dinner, or other social activities.
- Dating.
- Changing any of the office’s normal business practices (for example, scheduling late appointments so no one is around, having sessions away from the office, etc.).
- Confiding in a patient (for example, about the therapist’s love life, work problems, etc.).
- Telling a patient that he or she is special; that the therapist loves him or her.
- Relying on a patient for personal and emotional support.
- Giving or receiving significant gifts.
- Providing or using alcohol (or drugs) during sessions.

Signs of inappropriate behavior and misuse of power include:

- Hiring a patient to do work for the therapist, or bartering goods or services to pay for therapy.
- Suggesting or supporting the patient’s increased isolation from social support systems, increasing dependency on the therapist.
- Any violation of the patient’s rights as a consumer (see Patient Bill of Rights, page 4).

He started to tell me his troubles, and the burden was heavy. Then he made me feel like I had to comfort him, to have sex with him. I was the one who needed help. I have more problems now than when I started.



Therapy is meant to be a guided learning experience, during which therapists help patients to find their own answers and feel better about themselves and their lives. A patient should **never** feel intimidated or threatened by a therapist's behavior.

If you are experiencing any of these warning signs, trust your own feelings. Check on the therapist's behavior with a different therapist, or with any of the agencies in *Where To Start* (see page 9). Depending on what you find out, you may want to find another therapist.

She told me I didn't have to make payments, that I would just do work on her house. Then it turned into sex. I feel powerless because she still helps me.


What If It's Me?

If you have been sexually abused or exploited by your therapist, you may be feeling very confused. You may feel:

- Guilty and responsible—even though it's the **therapist's** responsibility to keep sexual behavior out of therapy.
- Mixed feelings about the therapist—protectiveness, anger, love, betrayal.
- Isolated and empty.
- Distrustful of others or your own feelings.
- Fearful that no one will believe you or understand what happened, or that someone will find out.
- Confused about dependency, control, and power.
- Numb.

You may even have nightmares, obsessive thoughts, depression, or suicidal or homicidal thoughts. You may feel overwhelmed as you try to decide what to do or whom to tell.

It's essential that you face what happened. This may be painful, but it is the first major step in healing and recovering from the experience. You may have both positive and negative feelings at the same time, such as starting to feel



personal control, being afraid of what may happen in the future, remembering the experience, and feeling relieved that the sexual relations are over.

The second step in the healing process is to decide what YOU want to do next. Try to be open-minded about your options.

Please remember: **It doesn't matter** if you, the patient, started or wanted the sexual involvement with the therapist. Therapists are responsible for keeping sexual intimacy out of the therapy relationship and are trained to know how to handle a patient's sexual attractions and desires.

I trusted and believed in him. I had always felt safe with him, which was something I've rarely ever felt. He told me we had to keep our relationship secret because of the harm it could cause to his career. I've lied to everyone about us. I'm barely talking to my family, and I have no friends. I hate living like this.

Where To Start

You may need to (1) talk to someone who will understand what you're going through, (2) get information on whether the therapist's behavior was illegal and/or unethical, and (3) find out what you can do about it. Three places to get help are:

- **Licensing Boards**—In the Department of Consumer Affairs, three different boards license therapists. They can give general information on appropriate behavior for therapists and your rights for reporting what happened, as well as how to file a complaint with them. See page 11 for addresses and phone numbers.
- **Sexual Assault/Crisis Centers**—These centers have staff trained in all types of sexual abuse and exploitation. They can provide general information on appropriate behavior for therapists, crisis services, your rights for reporting what happened, and names of therapists and support groups that may be helpful. Numerous centers are located throughout California. Look in your telephone book under “sexual assault center” or “crisis intervention service.”



- **Professional Associations**—Each licensed therapy profession has at least one professional association. Associations can give general information on appropriate behavior for therapists, your rights for reporting what happened, and how to file a complaint with them. They can also provide names of therapists who may be helpful. See page 15 for association addresses and telephone numbers.

What You Can Do

You can deal with your situation in several different ways. Take time to carefully explore all of your rights and options. It may help to decide what your goals are.

- **Reporting the therapist**
Perhaps you want to prevent the therapist from hurting other patients. You may want to receive monetary compensation for the damage you have suffered and to help pay for future therapy sessions. You may want to make it known that sexual exploitation is always wrong. You may want to do all of these. If this is your decision, there are several reporting options. It is important to note that some reporting options have limits on the time that may pass before the report is made (called a statute of limitations). As you consider your options, be aware of those limits.
- **Your recovery**
You may also want to explore and process what happened between you and the therapist. If you decide to do this, you can explore therapy or support groups (see page 17).
- **Move on**
Or you may wish simply to move on past this experience as quickly as possible and get on with your life. Remember—you have the right to decide what is best for you.

REPORTING OPTIONS

If you decide to report a therapist's unethical and illegal behavior, there are four different ways to do so. Each option has both strong and weak points. You may choose any one or all of these options:

- **Administrative action**—file a complaint with the therapist's licensing board.

- Civil action—file a civil lawsuit.
- Professional association action—file a complaint with the professional association's ethics committee.
- Criminal action—file a complaint with local law enforcement.

ADMINISTRATIVE ACTION

The three licensing boards that license and regulate therapists are:

Medical Board of California

1430 Howe Avenue
Sacramento, CA 95825
(916) 263-2388 or (800) 633-2322

This board licenses and regulates physicians, including psychiatrists.

Board of Psychology

1422 Howe Avenue, Suite 22
Sacramento, CA 95825
(916) 263-2699 or (800) 633-2322

This board licenses and regulates psychologists, psychological assistants, and registered psychologists.

Board of Behavioral Sciences

400 R Street, Suite 3150
Sacramento, CA 95814
(916) 445-4933

This board licenses and regulates educational psychologists; licensed clinical social workers; registered associate clinical social workers; licensed marriage, family, and child counselors; and registered marriage, family, and child counselor interns and trainees.



The purpose of these licensing boards is solely to protect the health, safety, and welfare of consumers. Licensing boards have the power to discipline therapists by using the administrative law process. Depending on the violation, the board may revoke, suspend, and/or place a license on probation with terms and conditions. When a license is revoked, the therapist cannot legally practice. [Note that Business & Professions Code Section 2960.1 requires revocation of the license or registration whenever sexual misconduct is admitted or proven against a psychologist, psychological assistant, or registered psychologist. Section 4982.26 requires revocation of a marriage, family, and child counselor license under the same circumstances.]

There is **no time limit** for reporting a sexual exploitation case to a licensing board. However, it is best to report such conduct as soon as possible.


HOW THE COMPLAINT PROCESS WORKS

The licensing boards can give you detailed information about the complaint filing process and discuss your situation with you. To file a complaint, you can either request a complaint form or write a letter. Be sure to include your name, address, and telephone number; the therapist's name, address, and telephone number; a description of your complaint; copies of any documentation available (for example, letters, bill receipts, cancelled checks, or pictures); and names, addresses, and telephone numbers of any witnesses.

Each complaint is evaluated and investigated, and you and the therapist will be notified if the board has sufficient evidence to initiate disciplinary action. You and the therapist will each be interviewed separately.

Most cases are settled by a *stipulated agreement*—the therapist typically admits to the violation(s) and accepts the disciplinary action; no hearing is held, and the patient does not have to testify. In the unlikely event that your case is **not** settled by a stipulated agreement, a hearing will be held by an administrative law judge, and you will be required to testify. When the judge makes a decision about the case, the board will then decide whether to accept this decision or to issue its own.

It is policy to use only initials, rather than full names, to identify patients in public documents. However, hearings are open to the public, and there is a possibility that confidentiality may be jeopardized during the investigation



process or at the hearing itself. If you are concerned about this, discuss it with the licensing board investigator.

The disciplinary process may take about two years from the time a complaint is received to the time a final decision is made. Sometimes the process takes even longer. Please keep in mind that you cannot receive monetary compensation from the therapist by using this option, but you may affect the therapist's ability to practice and thereby protect other potential patients from similar misconduct.

CIVIL ACTION

Suing the therapist or his/her employer

Generally, civil lawsuits are filed to seek money for damages or injuries to a patient. For a sexual exploitation case, a patient may want to sue the therapist for injuries suffered and for the cost of future therapy sessions. Under California law, you may file a lawsuit against either the therapist or the therapist's employer if you believe the employer knew or should have known about the therapist's behavior. You may also sue the local or state public mental health agency for which the therapist works, but you must first file a complaint with the agency within six months of the sexual exploitation. (In some cases, this six-month period may be extended to one year.)

Time limits

If you think you want to file a lawsuit, it is important to consult an attorney as soon as possible, since there are different time limits for filing civil lawsuits. Most civil lawsuits must be filed within one year after the sexual exploitation.

Media attention

Once a legal suit is filed, there is the possibility of media coverage, especially if the patient or therapist is well known. While many cases are settled out of court, some do go to trial, and it can take years before your case is actually tried.

Patients don't always win

You should also be aware that some cases end up being decided in favor of the therapist, rather than the patient.



FINDING AN ATTORNEY

Take some time to choose an attorney to represent you. You may need to interview several. Here are some points to consider:

- Get a list of attorneys from the State Bar or your County Bar Association's referral service. Also, check with your local legal aid society for legal assistance. Look in the telephone book yellow pages under "attorney."
- While some attorneys are willing to wait to be paid based on the outcome of the suit (contingency basis), some will not.
- Be sure that the attorney has civil litigation experience in the area of medical and/or psychological malpractice.
- Check with the State Bar Association to make sure that the attorney has a clear license.
- Make sure that you feel comfortable with your attorney and can trust and confide in him or her.

PROFESSIONAL ASSOCIATION ACTION

Many therapists join professional associations—organizations that provide education and guidance to people in a certain profession. Each association has its own ethics guidelines, and all clearly state that sexual involvement with patients is unacceptable and unethical.

If your therapist is a member of a professional association, you may file a formal complaint with the association. After investigating the complaint, the association may recommend certain disciplinary actions or may remove the therapist from its membership. Removing a therapist from the association will let other members know about the person's unethical behavior, **but it will not keep the therapist from practicing.** Only a licensing board or court action can do that. In addition, it will not result in monetary recovery for you (only a civil action can do that), and it will not result in criminal action against the therapist.

Each association has different ways of filing complaints. Call or write the appropriate association for this information. To find out which association the therapist belongs to, if any, call the therapist's office and request this information; have a friend call the office or therapist for you; or check with the different associations.

Below are associations listed by profession:

PSYCHIATRIST, PHYSICIAN

American Psychiatric Association

1400 K Street, NW
Washington, DC 20005
(202) 682-6000

California Medical Association

221 Main Street
San Francisco, CA 94105
415-541-0900

California Psychiatric Association

1400 K Street, Suite 302
Sacramento, CA 95814
(916) 442-5196

LICENSED PSYCHOLOGIST

American Psychological Association

750 First Street, NE
Washington, DC 20002
(800) 374-2721

California Psychological Association

1022 G Street
Sacramento, CA 95814
(916) 325-9786

LICENSED CLINICAL SOCIAL WORKER

**National Association
of Social Workers**

1016 23rd Street
Sacramento CA 95816
(916) 442- 4565

**California Society
for Clinical Social Work**

425 University Avenue, Suite 210
Sacramento, CA 95825
(916) 923-0255

LICENSED MARRIAGE, FAMILY, AND
CHILD COUNSELOR

**American Association for
Marriage and Family Therapy**

1133 15th Street, NW, Suite 300
Washington, DC 20005
(202) 452-0109

**California Association of
Marriage and Family Therapists**

7901 Raytheon Road
San Diego, CA 92111
(619) 292-2638



CRIMINAL ACTION

California lawmakers want everyone to know that sexual exploitation of patients by therapists is wrong. The law makes it a crime for a therapist to have sexual contact with a patient (SB 1004, Chapter 795, Statutes of 1989, Business and Professions Code Section 729). For a first offense, an offender would be charged with a misdemeanor. Second and following offenses may be a misdemeanor or a felony, and the offender may be (1) fined up to \$1,000 and/or sentenced to county jail for up to one year or (2) fined up to \$5,000 and/or sentenced to state prison for up to one year, respectively.

This law applies to two kinds of situations:

- The therapist has sexual contact with a patient during therapy, or
- The therapist ends therapy to start having sexual contact with the patient.

To file a criminal complaint against a therapist:

- Contact your local police. Police agencies in most larger cities have sexual assault units that handle these kinds of complaints.
- Contact your local Victim/Witness Assistance Program for help through the legal process. Look in your local telephone book under “district attorney,” or call 1-800-VICTIMS (842-8467) for your local program.

Once a complaint is filed, the police will investigate it and give the results to the district attorney’s office. The district attorney’s office will decide whether there is enough evidence to file criminal charges. Criminal prosecution must be initiated within two years of the offense.

Where To Get Help

For many patients who have been sexually exploited by therapists, it's difficult to see another therapist for help and support. However, for most people, the issues that brought them to therapy were never worked on or resolved, and the sexual exploitation created even more issues to handle. If this is your situation, therapy may be an important tool in your healing process.

Before selecting a therapist, interview several until you find one you are comfortable with. Use the Patient Bill of Rights as a guide. If you are unsure after one session, either consider a different therapist or set up a follow-up session to clarify your concerns. Do not feel pressured to stay with one therapist.

Finding a Therapist

Some ways of finding a therapist are:

- Ask someone you know who has been in therapy, feels good about the experience, and has changed in ways you consider positive.
- Call your local sexual assault center or crisis intervention service (in the telephone book yellow pages). These centers can refer you to therapists experienced in dealing with persons who have suffered sexual exploitation or abuse.
- Call the professional associations (see page 15) and ask for some referrals to therapists who specialize in helping persons who have been sexually abused or exploited by therapists.

After getting several names, call the appropriate licensing board (see page 11) and professional association and ask if the therapists are licensed and if any disciplinary actions have been filed against them. Also check your county Superior Court to see if there is a record of any malpractice lawsuits filed against them.

Self-Help Support Groups

There is an informal network of self-help support groups throughout California. While there might not be a group specifically about sexual exploitation by therapists in your area, there may be more general ones on other kinds of sexual abuse. To find out if there are any in your area, call your local sexual assault center or crisis intervention service (in the telephone book yellow pages).



Frequently Asked Questions

Is it normal to feel attracted to my therapist?

Yes. It is normal to feel attracted to someone who is attentive, kind, and caring. This is a common reaction toward someone who is helping you. However, all therapists are trained to be aware of this and to maintain a therapy relationship that is beneficial to the patient.

What if I was the one who brought up having sex?

That doesn't matter. The therapist is the one who is responsible for keeping sexual intimacy out of therapy.

Does this happen a lot?

A national study revealed that probably less than 10% of all therapists have had sexual contact with their patients and that 80% of the sexually exploiting therapists have exploited more than one patient. In other words, if a therapist is now sexually exploiting a patient, he or she probably has done so before and is likely to do so again.

Why do some therapists sexually exploit their patients?

There are probably as many excuses as there are therapists. But no excuse is acceptable for using the trusted, therapeutic relationship for the therapist's own sexual gain. All therapists know that this conduct is unethical and illegal.

Why do I feel scared or confused about reporting my therapist?

Feelings of confusion, protectiveness, shame, or guilt are especially common in this type of situation. After all, in most cases, the therapist was an extremely important person in the patient's life. However, it is important for you to get as much information as possible about your options. Keep in mind that you are in control and can choose what to do.

What if the therapist retaliates against me, harasses me, or files a lawsuit against me for reporting him or her?

Retaliation and harassment of complainants is illegal and can be prosecuted. Contact your local district attorney. If the therapist files a lawsuit against you, you will be required to defend yourself in the lawsuit. However, the law does provide immunity from monetary liability for reporting misconduct to a licensing board.

How can I prevent this from happening again?

1. Acknowledge your right to be free from sexual exploitation.
2. When choosing a therapist, check with the licensing board (see page 11) to see if the therapist is licensed, and if the license is under suspension or probation. Also check on any complaints filed with a professional association and with your county Superior Court to see if any malpractice lawsuit judgments are on file against the therapist.
3. Question any action that may seem sexual in nature.
4. Remember that while feelings of attraction are natural, therapy is supposed to be a means to explore and resolve feelings, without having to act them out.
5. Feel free to end a relationship that no longer seems safe.

Can I file an anonymous complaint with a licensing board?

Anonymous complaints are accepted, but they are almost impossible to investigate without the cooperation of the accuser.

Once I told my therapist I didn't want to see him anymore, I felt free. I'm beginning to feel better, stronger.



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